

Expedited Bill No. 30-03
Concerning: Collective Bargaining –
Schedule and Process
Revised: 9-22-03 Draft No. 1
Introduced: September 9, 2003
Enacted: September 30, 2003
Executive: October 9, 2003
Effective: October 9, 2003
Sunset Date: None
Ch. 22, Laws of Mont. Co. 2003

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Management and Fiscal Policy Committee

AN EXPEDITED ACT to:

- (1) modify the process and schedule for collective bargaining with County bargaining units;
and
- (2) repeal obsolete provisions, update language, and generally amend the laws governing
collective bargaining by County employees, including public safety employees.

By amending

Montgomery County Code

Chapter 33, Personnel and Human Resources

Sections 33-79, 33-80, 33-81, 33-106, 33-108, and 33-153

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 33-79, 33-80, 33-81, 33-106, 33-108, and 33-153 are amended as follows:

33-79. Selection, certification and decertification procedures.

- (a) The certification or decertification of an employee organization as the unit's representative for the purpose of collective bargaining shall be initiated in accordance with the following procedures:

* * *

- (4) Petitions [may be filed between July 1, 1982, and July 31, 1982. Thereafter, petitions] may be filed between September 1 and September 30 of any year, but no sooner than [twenty-two (22)] 22 months following an election held pursuant to this section.

* * *

- [(6) If, during the period of July 1 to July 31, 1982, a petition is filed by the incumbent representative of unit employees certified under the employer-employee relations article of this chapter, and no other employee organization files a valid petition, that incumbent certified representative shall be certified without an election, provided it produces evidence, acceptable to the permanent umpire, of majority representation.]

* * *

33-80. Collective bargaining.

* * *

- (g) Submission to Council [review]. A ratified agreement shall be binding on the employer and the certified representative, and shall be reduced to writing and executed by both parties. In each proposed annual operating budget, the County Executive shall describe any collective bargaining agreement or amendment to an agreement that is scheduled to take effect in the next fiscal year and estimate the cost of implementing that agreement. Any term or condition [thereof] of a collective bargaining agreement which requires an appropriation of funds or enactment, repeal or modification of a County law shall be timely submitted to the County Council by the employer [and the] by April 1, unless extenuating circumstances require a later

date. If a later submission is necessary, the employer shall specify the submission date and the reasons for delay to the Council President by April 1. The employer shall make a good faith effort to have such term or condition implemented by Council action. Each submission to the Council shall include:

- (1) all proposed legislation and regulations necessary to implement the collective bargaining agreement;
- (2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and
- (3) all side letters or other extraneous documents that are binding on the parties.

(h) Council review. On or before May 1, the County Council shall indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so, and shall state its reasons for any intent to reject any part of the agreement. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15. If the Council indicates its intention to reject any part, it shall designate a representative to meet with the parties and present the Council's views in their further negotiations. This representative shall also participate fully in stating the Council's position in any ensuing impasse procedure. The parties shall thereafter meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either of the parties may initiate the impasse procedure set forth in Section 33-81. The results of the negotiation or impasse procedure shall be submitted to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days.

(i) Adjustments. Any agreement shall provide either for automatic reduction or elimination of conditional wage [and/]or benefits adjustments if:

- (1) the Council [fails to] does not take action necessary to implement the agreement, or
- (2) [if] sufficient funds are not appropriated for any fiscal year [in which] when the agreement is in effect.

(j) Later years. The process and timetable in subsection (h) apply to Council review of wage or benefits adjustments after the first year of any multi-year agreement.

(k) Out-of-cycle amendments. The process in subsection (h) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in subsection (h) do not apply. The Council President shall set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment.

33-81. Impasse procedure.

(a) [Prior to November] Before September 10 of any year in which the employer and a certified representative bargain collectively, they shall choose an impasse neutral either by agreement or through the processes of the American Arbitration Association. The impasse neutral shall be required to be available during the period from January 20 to February 1. Fees, costs and expenses of the impasse neutral shall be shared equally by the employer and the certified representative.

* * *

33-106. Selection, certification, and decertification procedures.

* * *

[(e) If, during the thirty (30) days following the effective date of this article, a petition is filed by the incumbent representative of unit employees certified under article IV of this chapter, and no other employee organization files a valid petition, and no petition calling for an election signed by twenty (20) percent of unit employees has been filed with the labor relations administrator, the incumbent certified representative shall be certified without an election, provided it produces evidence, acceptable to the labor relations administrator and dated after the enactment of this article, that a majority of the employees in the unit desire to be represented by the incumbent representative for the purposes of collective bargaining under the provisions of this article.]

33-108. Bargaining, impasse, and legislative procedures.

* * *

(d) Before [November] September 10 of any year in which the employer and the certified representative bargain collectively, the Labor Relations Administrator must appoint a mediator/arbitrator, who may be a person recommended by both parties. The mediator/arbitrator must be available from January 2 to June 30. Fees and

expenses of the mediator/arbitrator must be shared equally by the employer and the certified representative.

* * *

- (g) In each proposed annual operating budget, the County Executive must describe any collective bargaining agreement or amendment to an agreement that is scheduled to take effect in the next fiscal year and estimate the cost of implementing that agreement. The employer must submit to the Council by April 1, unless extenuating circumstances require a later date, any term or condition of the collective bargaining agreement that requires an appropriation of funds, or the enactment or adoption of any County law or regulation, or which has or may have a present or future fiscal impact. If a later submission is necessary, the employer must specify the submission date and the reasons for delay to the Council President by April 1. The employer must expressly identify to the Council and the certified representative any term or condition that requires Council review. Each submission to the Council must include:
- (1) all proposed legislation and regulations necessary to implement the collective bargaining agreement;
 - (2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and
 - (3) all side letters or other extraneous documents that are binding on the parties.
- The employer must make a good faith effort to have the Council approve all terms of the final agreement that require Council review.
- (h) The Council may hold a public hearing to enable the parties and the public to testify on the agreement.
- (i) The Council may accept or reject all or part of any term or condition that requires Council review under subsection (g). On or before May 1, the Council must indicate by resolution its intention to appropriate funds for or otherwise implement the items that require Council review or its intention not to do so, and must state its reasons for any intent to reject any such item. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15.
- (j) If the Council indicates its intention to reject any item that requires Council review,

the Council must designate a representative to meet with the parties and present the Council's views in the parties' further negotiation on items that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this Section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement, or its intention not to do so.

* * *

(m) Later years. The process and timetable in subsections (i) and (j) apply to Council review of wage or benefits adjustments after the first year of any multi-year agreement.

(n) Out-of-cycle amendments. The process in subsections (i) and (j) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in those subsections do not apply. The Council President must set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment.

33-153. Bargaining, impasse, and legislative procedures.

* * *

(d) Before [November] September 10 of any year in which the employer and the certified representative bargain collectively, they must choose an impasse neutral, either by agreement or through the processes of the American Arbitration Association. The impasse neutral must be available from January 15 to February 1. The impasse neutral's fees and expenses must be shared equally by the employer and the certified representative.

* * *

(l) In each proposed annual operating budget, the County Executive must describe any collective bargaining agreement or amendment to an agreement that is scheduled to take effect in the next fiscal year and estimate the cost of implementing that agreement. The annual operating budget [which the employer submits to the County Council] must include sufficient funds to pay for the items in the parties' final agreement. The employer must expressly identify to the Council by April 1, unless extenuating circumstances require a later date, all terms and conditions in the agreement that:

- (1) require an appropriation of funds, or
- (2) are inconsistent with any County law or regulation, or
- (3) require the enactment or adoption of any County law or regulation, or
- (4) which have or may have a present or future fiscal impact.

If a later submission is necessary, the employer must specify the submission date and the reasons for delay to the Council President by April 1. The employer must make a good faith effort to have the Council take action to implement all terms and conditions in the parties' final agreement.

(m) Each agreement submitted to the Council must include:

- (1) all proposed legislation and regulations necessary to implement the agreement;
- (2) all changes from the previous collective bargaining agreement, indicated by brackets and underlines or a similar notation system; and
- (3) all side letters or other extraneous documents that are binding on the parties.

[(m)] (n) * * *

[(n)] (o) The Council may accept or reject all or part of any term or condition in the agreement which:

- (1) requires an appropriation of funds, or
- (2) is inconsistent with any County law or regulation, or
- (3) requires the enactment or adoption of any County law or regulation, or
- (4) which has or may have a present or future fiscal impact.

On or before May 1, the Council must indicate by resolution its intention to

appropriate funds for or otherwise implement the agreement or its intention not to do so, and must state its reasons for any intention to reject any part of the parties' final agreement. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15.

[(o)] (p) If the Council indicates its intention to reject any part of the parties' final agreement, it must select a representative to meet with the parties and present the Council's views in the parties' further negotiation on matters that the Council has indicated its intention to reject. This representative must also participate fully in stating the Council's position in any ensuing impasse procedure. The parties must meet as promptly as possible and attempt to negotiate an agreement acceptable to the Council. Either party may at this time initiate impasse procedures under this section. The parties must submit the results of the negotiation, whether a complete or a partial agreement, to the Council on or before May 10. If the Council has deferred the May 1 deadline, that action automatically postpones the May 10 deadline by the same number of days. The Council then must consider the agreement as renegotiated by the parties and indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so.

[(p)] (q) * * *

(r) Later years. The process and timetable in subsections (o) and (p) apply to Council review of wage or benefits adjustments after the first year of any multi-year agreement.

(s) Out-of-cycle amendments. The process in subsections (o) and (p) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in those subsections do not apply. The Council President must set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment.

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

216 *Approved:*

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Michael L. Subin, President, County Council	Date
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Douglas M. Duncan, County Executive	Date
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220 *This is a correct copy of Council action.*

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Mary A. Edgar, CMC, Clerk of the Council	Date
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